

4 FAM 480

CLAIMS AGAINST THE UNITED STATES

(CT:FIN-427; 07-23-2013)
(Office of Origin: CGFS/FPRA/FP)

4 FAM 481 SCOPE AND AUTHORITY

4 FAM 481.1 *Scope*

(CT:FIN-427; 07-23-2013)

This subchapter contains the Department of State's policies and procedures regarding certain noncontractual claims against the U.S. Government. The procedures provide guidance for processing the claims received by Department employees.

4 FAM 481.2 *Authority*

(CT:FIN-427; 07-23-2013)

The authorities include 28 U.S.C. 2672; 31 U.S.C. 3325 and 3528; 28 CFR Part 14; 22 CFR 16.15; 22 CFR 910.5; 2 FAM 281.1; 14 FAM 640; 4 FAH-3 H-420; and 4 FAH-3 H-430. The Department will forward claims involving another Federal agency to the agency authorized to pay, settle, or deny such claims.

4 FAM 482 FORMS AND REFERRALS

4 FAM 482.1 *Claim Form*

(CT:FIN-405; 07-07-2010)

Generally, the formal requirements for claims are included in 2 FAM 281.4 and 2 FAM 281.6. Any written request to the United States for payment of money that is signed by the claimant or the claimant's representative is processed as a claim against the United States in accordance with 2 FAM 281.4-2.

4 FAM 482.2 Referral of Claims

(CT:FIN-405; 07-07-2010)

The Office of the Legal Adviser (L) determines the appropriate action(s) for a claim against the United States. A referral must include any documentation or other materials relevant to the claim.

4 FAM 483 CLAIM AND VOUCHERING REQUIREMENTS

4 FAM 483.1 Voucher Preparation

(CT:FIN-405; 07-07-2010)

A voucher official prepares a voucher for each claim for each decision document (settlement agreement or claim adjudication) that directs payment of a claim by a paying office. In addition, he or she attaches all supporting documentation related to the voucher.

4 FAM 483.2 Voucher Review

(CT:FIN-405; 07-07-2010)

The voucher official prepares the voucher in accordance with 31 U.S.C. 3325. The responsibilities for a certifying official certifying a voucher are listed in 31 U.S.C. 3528(a).

4 FAM 483.3 Source of Funds

(CT:FIN-427; 07-23-2013)

- a. Claims payable by the Department are recorded as a liability and are charged to the appropriation and allotment of the activity program and location whose activities gave rise to the claim, except as stated in 4 FAM 483.3, paragraphs b through d, following.
- b. Tort claims of \$2,500 or less are settled by the Department from the accounts payable established in the operating appropriation of the post, bureau, or office, current at the time of final settlement. Tort claims in excess of \$2,500 are settled and paid as directed by L (and processed by the *Bureau of the Comptroller and Global Financial Services*, Office of *Claims (CGFS/F/C)*), in accordance with 28 U.S.C. 2672.
- c. Payments from accounts payable of expired accounts must be made in accordance with OMB Circular A-11 Part 4 Section 20.
- d. The payment of claims based on judgments of either U.S. or non-U.S. courts

are paid as instructed by L and *CGFS/F/C*.

4 FAM 484 TYPES OF CLAIMS

4 FAM 484.1 Claims Related to Foreign Service Grievance Board Decisions

(CT:FIN-405; 07-07-2010)

Unless appealed by the grievant in the appropriate U.S. District Court, in accordance with the Foreign Service Act of 1980, as amended (Public Law 96-465, Section 1105 et seq.), 22 CFR 16.15, and 22 CFR 910.5, a decision of the Foreign Service Grievance Board in a properly assigned case is final. The certifying officer must review the voucher and decision to ensure that the requested payment actually implements the decision and arithmetic computation is correct.

4 FAM 484.2 Personal Property Claims of Department Employees

(CT:FIN-405; 07-07-2010)

The procedures for claims for loss or damage to personal property by Department employee's incident to employment are set forth in 14 FAM 640.

4 FAM 484.3 Claims for Injury or Death of Civilian Employees

(CT:FIN-405; 07-07-2010)

A claim related to injury or death of a civilian employee incident to employment will be filed in accordance with 2 FAM 281.4. Benefits are covered by the Federal Employees Compensation Act (FECA); see 3 FAM 3650.

4 FAM 484.4 Death of Foreign Service National (FSN) Employee

(CT:FIN-427; 07-23-2013)

A Foreign Service *National* (FSN) employee who dies as a result of injuries sustained in the performance of duty may be paid a death gratuity in accordance with 3 FAM 3650 or 3 FAM 7714. Amounts due to employee, such as unpaid compensation, must be settled by the post in accordance with local compensation plans. In determining the proper payee (e.g., surviving spouse, guardian of minor child, representative of estate), the administrative office may request authority to obtain local legal advice (see 2 FAM 283).

4 FAM 484.5 Unnegotiated Checks Due to Death or Nondelivery

4 FAM 484.5-1 Unnegotiated Checks, Less Than One Year Old

(CT:FIN-427; 07-23-2013)

- a. To claim the final salary and lump sum annual leave payments payable to a deceased employee, the employee's estate must submit a Form SF-1153, Claim for Compensation of Deceased Civilian Employee, along with the unnegotiated check to *HR/ER/WLD* (see 3 FAM 3656).
- b. The claimant must draft and sign the request for claims for the proceeds of undelivered checks. A voucher official prepares a voucher referencing the original check number, amount, checking account symbol, voucher number, and period of account, along with Form SF-1098, Schedule of Canceled or Undelivered Checks.

4 FAM 484.5-2 Unnegotiated Checks, More Than One Year Old

(CT:FIN-405; 07-07-2010)

Checks that are not negotiated after one year from its issue date are discussed in 4 FAH-3 H-346, Limited Payability of Government Checks. A new claim for reissuance may be submitted in accordance with the provisions of 31 U.S.C. 3702.

4 FAM 484.6 Miscellaneous Claims

4 FAM 484.6-1 Retirement Deductions of Civil Service Employees

(CT:FIN-427; 07-23-2013)

An application for refund of retirement deductions from the pay of a Civil Service employee is submitted on Form SF-2802, Application for Refund of Retirement Deductions–Civil Service Retirement System, or Form SF-3106, Application for Refund of Retirement Deductions–Federal Employees Retirement System (original only) to *CGFS*. If the refund claim is made by a beneficiary of a deceased employee, submission is on Form SF-2800, Application for Death Benefits–Civil Service Retirement System (original only), or Form SF-3104, Application for Death Benefits–Federal Employees Retirement System, with a certified copy of the public record showing the employee's death.

4 FAM 484.6-2 Retirement Deductions of Foreign Service Employees

(CT:FIN-427; 07-23-2013)

Form DS-5003, Application for Refund of Compulsory Retirement Contributions—Foreign Service Retirement System (formerly OF-138) (see 3 FAM 6000) is used to obtain a refund of retirement deductions from the pay of a Foreign Service employee. The Office of Retirement (HR/RET) processes Form DS-5003 and forwards it to *CGFS* for settlement.

4 FAM 484.6-3 U.S. Savings Bond Deductions

(CT:FIN-405; 07-07-2010)

A claim for refund of U.S. Savings Bond deductions should normally arise only in connection with amounts due the estate of a deceased employee.

4 FAM 484.7 Tort Claims

(CT:FIN-405; 07-07-2010)

A post, bureau, or office that is presented with administrative tort claims should refer to 2 FAM 281 and 28 CFR Part 14 for the procedures for submitting and processing such claims.

4 FAM 485 GENERAL AVERAGE CONTRIBUTION (GAC) CLAIMS

(CT:FIN-427; 07-23-2013)

- a. Under certain circumstances, claims for General Average Contribution (GAC) connected with the transportation of baggage, household goods, and effects of civilian employees may also be paid from appropriated funds. (See *5 U.S.C. 5732, General Average Contribution*.)
- b. When a GAC claim involves an employee's household goods, such claim is levied directly against the employee, who may be held financially responsible. If such household goods were not insured by a service floater policy provided by the carrier, the employee is required to post a bond or make a direct payment to the marine adjuster. Subject to the limitations in 14 FAM 600, the employee may claim reimbursement from the U.S. Government.

4 FAM 485.1 Vouchering Procedures

(CT:FIN-427; 07-23-2013)

- a. GAC claims are documented and submitted to the Office of Claims (*CGFS/F/C*).

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Claims for transportation of government-owned property may be paid from appropriated funds. GAC claims connected with the transportation of baggage, household goods, and effects of civilian employees may also be paid from appropriated funds, under certain circumstances:

- (1) GAC claims are documented on Form SF-1034, Public Voucher for Purchases and Services Other Than Personal, or Form DS-2076, Purchase Order, Receiving Report and Voucher (use this form in foreign countries);
 - (2) The voucher includes all pertinent information, including the disbursing office voucher number and the name of the United States disbursing officer (USDO) who processed the payment of ocean shipping charges;
 - (3) The post certifying officer is not required to sign the claim form covering the GAC claim; and
 - (4) The Office of Logistics Operations (A/LM/OPS) receives all GAC claims for completion.
- b. For a claim related to the transportation of household goods (see 14 FAM 640), the employee attaches the following documents and forwards them to A/LM/OPS:
- (1) The marine adjuster's published report, statement of facts, and "general-average bill" or invoice;
 - (2) A copy of the employee's travel order or other document authorizing shipment of the employee's household goods;
 - (3) A copy of the government or commercial bill of lading;
 - (4) A brief statement of the circumstances of the loss and the claim. If the shipment was on a foreign-flag vessel, include a statement as to the reason and authority for using the foreign-flag vessel signed by the U.S. Despatch Agent, post, or bureau management officer;
 - (5) A signed statement by the employee that contains the following information:
 - (a) Whether the shipment was insured by a service floater policy at the time of shipment or during shipment in which the loss or damage occurred;
 - (b) Whether an unusual means or indirect routing of the ocean shipment was selected by the employee for the employee's own convenience; and
 - (c) The true declared value of the effects as stated by the employee as being the actual value, taking into consideration depreciation, wear and tear, etc.; and
 - (6) A claim for reimbursement of monies paid by the employee. The claimant must furnish the marine adjuster's signed receipt marked "paid" as proof of payment.

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- c. For a claim related to the transportation of general supplies and equipment (see 14 FAM 310), the employee attaches the following documents and forwards them to A/LM/OPS:
 - (1) The marine adjuster's published report, statement of facts, and "general-average bill" or invoice;
 - (2) A copy of the government or commercial bill of lading; and
 - (3) A brief statement of the circumstances of the loss and the claim. If the shipment was on a foreign-flag vessel, include a statement as to the reason and authority for using the foreign-flag vessel signed by the U.S. Despatch Agent, post, or bureau management officer.

4 FAM 485.2 Disposition of Claims

(CT:FIN-405; 07-07-2010)

- a. GAC claims arising under Government or commercial bills of lading are settled administratively by the agency concerned unless questions of law or fact exist (which will be referred to the Office of the Legal Adviser (L)). All GAC claims will be submitted to the Department or agency concerned for settlement, with the exception of claims involving excess shipments, for which the employee may submit a claim directly to the insurer.
- b. The post management officer or U.S. Despatch Agent is responsible for ensuring that the claim is properly documented and that all supporting documents are attached or enclosed with the voucher. The claim and supporting documents are transmitted to A/LM/OPS by memorandum or the agency concerned by transmittal letter.

4 FAM 485.3 Payments of Claims

(CT:FIN-427; 07-23-2013)

- a. After A/LM/OPS processes the claim, A/LM/OPS sends the claim to *CGFS/F/C*. *CGFS/F/C* reviews and if appropriate, approves GAC claims for payment.
- b. Claims payable in local currency from a current appropriation are approved by the Department on Form SF-1034 or Form DS-2076.

4 FAM 486 THROUGH 489 UNASSIGNED